

AMENDED IN SENATE AUGUST 20, 2014

AMENDED IN SENATE JUNE 11, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## ASSEMBLY BILL

**No. 2441**

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**Introduced by Assembly Member Mullin**

February 21, 2014

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An act to amend Section 5403 of the Business and Professions Code, ~~relating to outdoor advertising~~; add Section 354 to the Public Utilities Code, relating to electricity.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2441, as amended, Mullin. ~~Outdoor advertising~~. *Electricity: distributed generation.*

*Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations, as defined. Existing law authorizes the commission to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable. Existing law requires the commission to require each electrical corporation under the operational control of the Independent System Operator as of January 1, 2001, to modify tariffs so that all customers that install new distributed energy resources, as defined, in accordance with specified criteria are served under rates, rules, and requirements identical to those of a customer within the same rate schedule that does not use distributed energy resources, and to withdraw any provisions in otherwise applicable tariffs that activate other tariffs, rates, or rules if a customer uses distributed energy resources. Existing law provides, notwithstanding these requirements, that a customer that installs new distributed energy resources not be*

*exempted from (1) reasonable interconnection charges, (2) charges imposed pursuant to the Reliable Electric Service Investment Act, and (3) charges imposed to repay the Department of Water Resources for electricity procurement expenses incurred in response to the electricity crisis of 2000–01. Existing law requires the commission, in establishing the rates applicable to customers that install new distributed energy resources, to create a firewall that segregates distribution cost recovery so that any net costs, taking into account the actual costs and benefits of distributed energy resources, proportional to each customer class, as determined by the commission, resulting from the tariff modifications granted to members of each customer class may be recovered only from that class.*

*This bill would make legislative findings and declarations as to clean onsite electricity generation and nonbypassable charges. The bill would, to the extent authorized by federal law, require the commission, by July 1, 2015, to establish a pilot program to do both of the following for those electrical corporation customers that have operational clean distributed energy resources, as defined: (1) require each electrical corporation to collect all applicable nonbypassable charges fixed or imposed by the commission based only on the actual metered consumption of electricity delivered to the customer through the electrical corporation's transmission or distribution system, and (2) calculate a reservation capacity for standby service, if applicable, based on the capacity needed by an electrical corporation to serve a customer's electrical demand during an outage of the clean distributed energy resource providing electric service for that customer. The bill would require the commission to suspend the eligibility of additional customers to participate in the pilot program when 500 megawatts of nameplate generating capacity from clean distributed energy resources has become operational statewide pursuant to the pilot program. The bill would require the State Energy Resources Conservation and Development Commission to report to the Legislature on the impact of the pilot program upon specified matter by July 1, 2020, or when 450 megawatts of nameplate generating capacity from clean distributed energy resources has become operational pursuant to the pilot program, whichever comes sooner.*

*Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.*

*Because the provisions of this bill would be a part of the act and because a violation of an order or decision of the commission implementing its requirements would be a crime, the bill would impose a state-mandated local program by creating a new crime.*

~~The Outdoor Advertising Act provides for the regulation of advertising displays visible from highways and prohibits, among others, advertising displays visible from a highway that simulate or imitate a directional, warning, danger, or informational sign, as specified. A violation of the act is a crime.~~

~~This bill would, except as specified, prohibit an advertising display visible from a highway that appears to be an official public agency changeable message sign. Because a violation of this prohibition would be a crime, the bill would impose a state-mandated local program.~~

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1     *SECTION 1. The Legislature finds and declares all of the*
- 2     *following:*
- 3     *(a) Clean onsite generation of electricity yields multiple benefits,*
- 4     *including increased electrical reliability, reduced emissions of*
- 5     *greenhouse gases and oxides of nitrogen (NOx), and electrical*
- 6     *grid resiliency.*
- 7     *(b) Increased deployment of clean onsite electricity generation*
- 8     *reduces the need for generation that emits higher levels of*
- 9     *greenhouse gases that contribute to climate change and higher*
- 10    *levels of NOx that contribute to smog formation.*
- 11    *(c) Several types of clean onsite electrical generation*
- 12    *technologies currently exist and others are being developed, with*
- 13    *many being manufactured and developed in California.*
- 14    *(d) Nonbypassable charges applied by electrical corporations*
- 15    *to electricity produced and consumed onsite are a major*
- 16    *impediment to broader deployment of clean onsite generation*
- 17    *technologies. Residential, commercial, and industrial customers*

1 are willing to invest their own capital to install clean onsite  
2 generation technologies. However, nonbypassable charges applied  
3 to electricity produced and consumed onsite create an economic  
4 barrier to these investments.

5 (e) California is the only state that allows electrical corporations  
6 to apply nonbypassable charges to electricity produced and  
7 consumed onsite among those states with similarly high energy  
8 prices and environmental goals, including New York, New Jersey,  
9 Maryland, Vermont, Connecticut, and Hawaii.

10 (f) A recent study shows that all ratepayers would see a net cost  
11 savings from increased deployment of onsite electricity generation  
12 at customer sites that pay nonbypassable charges only on their  
13 electricity purchases from the grid. This ratepayer savings arises  
14 because onsite electricity generation reduces demand on the  
15 electrical grid, which reduces market electricity prices, and avoids  
16 transmission and distribution costs and energy losses. On average,  
17 all ratepayers in electrical corporation service areas would see  
18 an energy rate savings of between seventeen cents (\$0.17) and  
19 thirty-seven cents (\$0.37) per megawatt hour, which translates to  
20 an average household savings of between nine cents (\$0.09) and  
21 eighteen cents (\$0.18) per month.

22 (g) Other cost-saving benefits to all ratepayers from clean onsite  
23 electrical generation include reductions in future generating  
24 capacity requirements, reductions in electrical grid congestion  
25 prices, reductions in emissions of greenhouse gases and criteria  
26 air pollutants, and increases in electrical grid resiliency and  
27 security.

28 (h) Nonbypassable charges create an economic barrier to the  
29 installation of clean onsite electrical generation and, as a result,  
30 prevent cost savings for all ratepayers and environmental benefits  
31 for all Californians.

32 SEC. 2. Section 354 is added to the Public Utilities Code, to  
33 read:

34 354. (a) As used in this section, “clean distributed energy  
35 resource” means a generating facility that is located on the  
36 customer’s premises and generates electricity, or electricity and  
37 useful heat, where the electricity generated is used for a purpose  
38 described in paragraph (1) or (2) of subdivision (b) of Section  
39 218, and that meets either of the following requirements:

40 (1) It meets all of the following criteria:

1 (A) Produces emissions of greenhouse gases at a rate per  
2 megawatthour, accounting for waste heat recovery, where  
3 applicable, and savings on transmission and distribution losses,  
4 that is less than an emissions rate determined by the Energy  
5 Commission by January 30, 2015, that represents the emissions  
6 of greenhouse gases from the marginal generating unit dispatched  
7 to meet the demand on the electrical grid that is avoided by the  
8 electricity generated by the clean distributed energy resource.

9 (B) Has an oxide of nitrogen (NOx) emissions rate, including  
10 credit for waste heat recovery, when applicable, that is no greater  
11 than 0.07 pounds per megawatthour, or a lower NOx emissions  
12 rate that the State Air Resources Board determines reflects the  
13 best performance achieved in practice by existing electrical  
14 generation technologies pursuant to Section 41514.9 of the Health  
15 and Safety Code.

16 (C) Has a nameplate-rated generation capacity of 20 megawatts  
17 or less.

18 (D) Is sized to meet the electrical demand of, or use the available  
19 waste heat of, the customer that will be served by the generating  
20 facility.

21 (2) It is an “eligible renewable energy resource” pursuant to  
22 the California Renewables Portfolio Standard Program (Article  
23 16 (commencing with Section 399.11)), has a nameplate-rated  
24 generation capacity of 20 megawatts or less, is sized to meet the  
25 electrical demand of the customer that will be served by the  
26 generating facility, and will not otherwise be addressed in the  
27 commission’s implementation of Sections 769 or 2827.1.

28 (b) To the extent authorized by federal law, by July 1, 2015, the  
29 commission shall establish a pilot program to do both of the  
30 following for those electrical corporation customers served by  
31 clean distributed energy resources installed after July 1, 2015:

32 (1) Require each electrical corporation to collect all applicable  
33 nonbypassable charges fixed or imposed by the commission based  
34 only on the actual metered consumption of electricity delivered to  
35 the customer through the electrical corporation’s transmission or  
36 distribution system. All charges shall be at the same rate per  
37 kilowatthour as paid by other customers that do not employ a clean  
38 distributed energy resource under the electrical corporation’s  
39 applicable rate schedule.

1     (2) (A) Calculate a reservation capacity for standby service, if  
2 applicable, based on the capacity needed by an electrical  
3 corporation to serve a customer's electrical demand during an  
4 outage of the clean distributed energy resource providing electric  
5 service for that customer.

6     (B) Initial reservation capacity shall be established by the  
7 customer for a minimum of 12 months based on the clean  
8 distributed energy resource generation technology's historical  
9 operation, the number, size, and outage diversity of the clean  
10 distributed energy resource, and the annual average reduction of  
11 customer load that could occur during an outage.

12     (C) If after the initial 12-month period, the electrical corporation  
13 reasonably determines that the reservation capacity does not reflect  
14 the customer's actual standby demand, averaged over the previous  
15 12 months, the electrical corporation shall modify the reservation  
16 capacity once every 12 months to reflect the customer's actual  
17 average annual reservation capacity based on the same criteria  
18 used to establish the initial reservation capacity. Calculation of  
19 actual average annual reservation capacity shall exclude the  
20 customer's electrical demand served by the electrical corporation  
21 within 24 hours following an outage of the clean distributed energy  
22 resource resulting from any event on the electrical corporation's  
23 transmission or distribution grid that is outside of the customer's  
24 control that requires the customer to reduce onsite generation.

25     (c) The commission shall suspend the eligibility of additional  
26 customers to participate in the pilot program established pursuant  
27 to subdivision (b) when 500 megawatts of nameplate generating  
28 capacity from clean distributed energy resources has become  
29 operational statewide pursuant to the pilot program.

30     (d) (1) By July 1, 2020, or when 450 megawatts of nameplate  
31 generating capacity from clean distributed energy resources has  
32 become operational pursuant to the pilot program established  
33 pursuant to subdivision (b), whichever occurs first, the Energy  
34 Commission, in consultation with the commission, shall report to  
35 the Legislature, which report shall be made publically available,  
36 examining the impact of the pilot program on all of the following:

37     (A) Avoided transmission and distribution costs.

38     (B) Avoided energy losses.

39     (C) Wholesale electricity market prices.

40     (D) Electricity costs to ratepayers.

1 (E) Air quality.

2 (F) Emissions of greenhouse gases.

3 (G) Job creation.

4 (H) Energy reliability.

5 (I) The extent to which the incentives provided by the pilot  
6 program contribute to achieving the state's distributed generation  
7 and combined heat and power goals.

8 (2) The report to be submitted pursuant to this subdivision shall  
9 be submitted in compliance with Section 9795 of the Government  
10 Code.

11 (3) The requirement for submitting a report pursuant to this  
12 subdivision is inoperative on July 1, 2024, pursuant to Section  
13 10231.5 of the Government Code.

14 SEC. 3. No reimbursement is required by this act pursuant to  
15 Section 6 of Article XIII B of the California Constitution because  
16 the only costs that may be incurred by a local agency or school  
17 district will be incurred because this act creates a new crime or  
18 infraction, eliminates a crime or infraction, or changes the penalty  
19 for a crime or infraction, within the meaning of Section 17556 of  
20 the Government Code, or changes the definition of a crime within  
21 the meaning of Section 6 of Article XIII B of the California  
22 Constitution.

23 SECTION 1. ~~Section 5403 of the Business and Professions~~  
24 ~~Code is amended to read:~~

25 ~~5403. No advertising display shall be placed or maintained in~~  
26 ~~any of the following locations or positions or under any of the~~  
27 ~~following conditions or if the advertising structure or sign is of~~  
28 ~~the following nature:~~

29 (a) ~~If within the right-of-way of any highway.~~

30 (b) ~~If visible from any highway and simulating or imitating any~~  
31 ~~directional, warning, danger, or information sign permitted under~~  
32 ~~the provisions of this chapter, or if likely to be mistaken for any~~  
33 ~~permitted sign, or if intended or likely to be construed as giving~~  
34 ~~warning to traffic, by, for example, the use of the words "stop" or~~  
35 ~~"slow down."~~

36 (c) ~~(1) If visible from any highway and appearing to be an~~  
37 ~~official public agency changeable message sign.~~

38 (2) ~~This subdivision shall not apply to prohibit an advertising~~  
39 ~~display that utilizes changeable messages authorized pursuant to~~  
40 ~~subdivision (f) of Section 5272.~~

~~(d) If within any stream or drainage channel or below the floodwater level of any stream or drainage channel where the advertising display might be deluged by flood waters and swept under any highway structure crossing the stream or drainage channel or against the supports of the highway structure.~~

~~(e) If not maintained in safe condition.~~

~~(f) If visible from any highway and displaying any red or blinking or intermittent light likely to be mistaken for a warning or danger signal.~~

~~(g) If visible from any highway that is a part of the interstate or primary systems, and is placed upon trees, or painted or drawn upon rocks or other natural features.~~

~~(h) If any illumination shall impair the vision of travelers on adjacent highways. Illuminations shall be considered vision impairing when its brilliance exceeds the values set forth in Section 21466.5 of the Vehicle Code.~~

~~(i) If visible from a state regulated highway displaying any flashing, intermittent, or moving light or lights.~~

~~(j) If, in order to enhance the display's visibility, the owner of the display or anyone acting on the owner's behalf removes, cuts, cuts down, injures, or destroys any tree, shrub, plant, or flower growing on property owned by the department that is visible from the highway without a permit issued pursuant to Section 670 of the Streets and Highways Code.~~

~~SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.~~